THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION NO. 2746 of 2006

DATED: 14-02-2006

Between:

Ollepu Somaiah

S/o. Yerranna …Petitioner

And

The District Collector,

Nizamabad District,

Nizamabad and another … Respondents

THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION NO. 2746 of 2006

ORDER:

The present writ petition is filed by the petitioner seeking to declare the action of the 2nd respondent in issuing proceedings vide Ref.No.D/5644/05 dated 02-12-2005 and also another notice No.D/91/06 dated 23-01-2006 as arbitrary and illegal.

Heard the learned counsel appearing for the petitioner and the learned Government Pleader for the respondents and perused the material on record.

Learned counsel appearing for the petitioner submits that as the petitioner is economically backward class person and a landless poor, in

pursuant to his application for allotment of land, an extent of 29 ½ guntas of dry land in Survey No.683/1, P-20 situated at Boregaon (K) village of Makloor Mandal of Nizamabad district was allotted as loani patta by the then Tahsildar vide his proceedings No.A5/5285/73 M dated 15-01-1975. Thereafter, petitioner leveled the said land and cultivating the same. It is stated that pattadar pass book and the title deed also issued in favour of the petitioner vide patta No.689 by the Mandal Revenue Officer, Makloor, the second respondent herein.

While so, the Mandal Revenue Officer, Maklur, issued a notice dated 02-12-2005 under Section 6 of Andhra Pradesh Land Encroachment Act, 1905(Act No. III of 1905) alleging that the petitioner is unauthorisedly in occupation of the government land to an extent of 700 centimeters. Thereafter, another notice in Form – I under Rule 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 has been issued on 23-01-2006 calling upon the petitioner to submit his explanation within 15 days as to why he shall not be summarily evicted as the petitioner has been found in possession of the assigned lands of 0.29 guntas of land in S.No.683/1 P-20 of Boregaon (K) village, H/o. Dasnagar. It is stated that the said notice has been served on the petitioner on 07-02-2006.

It is further stated that both the proceedings under the A.P. Land Encroachment Act, 1905 and the proceedings under the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 cannot be taken simultaneously.

Learned counsel appearing for the respondents submits that obviously the notice under Section 6 of the A.P. Land Encroachment Act, 1905 is by mistake and therefore, the second notice dated
23-01-2005 has been issued under Rule – 3 of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977.

Having regard to the facts and circumstances of the notice, the notice under Rule 3 of the Andhra Pradesh Lands (Prohibition of Transfers) Rules, 1977 in Form No – I, dated 23-01-2006 is concerned, as it is a show cause notice calling upon the petitioner to submit his explanation, the petitioner is permitted to submit his explanation within 10 days from the date of receipt of a copy of this order and till such explanation is considered and final orders are passed under Section 4(1) of the Act, which is an appealable order, no coersive

steps to disturb the possession shall be taken.

Writ petition is accordingly disposed of. No order as to costs.

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V. ESWARAIAH, J.

Dated: 14-02-2006.

RNS